



**Declaration of Marina Portnova, Esq.**

NOW COMES Marina Portnova and deposes and states as follows:

1.

My name is Marina Portnova. I am over twenty-one (21) years of age and am competent to testify in this matter. Unless otherwise indicated, the facts set forth herein are based upon personal knowledge. I understand that willful false statements are punishable by fine or imprisonment, or both and may jeopardize the validity of the application or any patent issuing thereon.

2.

I am a partner in the law firm of Blakely, Sokoloff, Taylor & Zafman LLP. I represented Deane Gardner and Mitz Kurobe in connection with preparation of a patent application Serial No. 09/757,241 ("the '241 application") that was ultimately filed as "INTEGRATING PERSONAL DATA CAPTURING FUNCTIONALITY INTO A PORTABLE COMPUTING DEVICE AND A WIRELESS COMMUNICATION DEVICE" (invented by Gardner and Kurobe) on January 8, 2001.

3.

On March 1, 2001, I received a filing receipt acknowledging receipt of the '241 application and confirming the filing date of January 8, 2001. On March 2, 2001, I received a Notice to File Missing Parts requesting a signed oath or declaration and substitute drawings. On March 8, 2001, I filed a complete response to the Notice to File Missing Parts. Subsequent to that response, I received a duplicate filing receipt, which erroneously listed the filing date of the '241 application as March 13, 2001. As a result, on June 14, 2001, I filed a Request for Correction of Filing Receipt. That request was acknowledged by the United States Patent and Trademark Office on June 18, 2001.

4.

I began working with Deane Gardner and Mitz Kurobe ("the inventors") prior to November 16, 2000. At the time I began working with the inventors, they had already conceived of the subject matter of each of the claims now pending in the '241 application.

5.

I have searched our files in our firm's computer system and verified that the drawings attached hereto (drawings that were used to support the disclosure of the invention described in the '241 application, and which are attached hereto as Exhibits A-E) were each created on or before November 9, 2000. Each drawing was electronically generated in our computer system, and each reflects in our computer system that it was created and last modified on or before November 9, 2000.

6.

I have also reviewed the attached printed email and fax correspondence from the inventors that was retained in my firm's paper file relating to the present application. I have verified that the email correspondence from inventor Deane Gardner (attached as Exhibit F) is a true and accurate copy of the email I received on October 20, 2000. Furthermore, I have verified that the attached faxed copy of a draft drawing illustrating the invention (attached as Exhibit G) is a true and accurate copy of the fax I received on November 6, 2000.

7.

Based upon my recollection and the attached corroborating materials, it is my testimony that the inventors had conceived the subject matter of the claims now pending in the '241 application prior to November 16, 2000. Further from the time I began working with the inventors until the time when the invention was constructively reduced to practice on January 8, 2001, I exercised due diligence in the preparation of the formal application and the execution of accompanying documents with no more than the usual interruptions for holidays and the demands of my other clients.

I declare under oath and under penalty of perjury that the foregoing statements are true and correct.



Marina Portnova, Esq.  
September 14, 2005

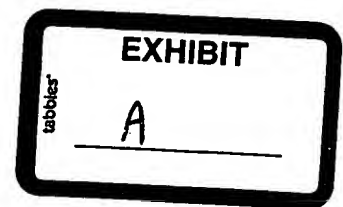
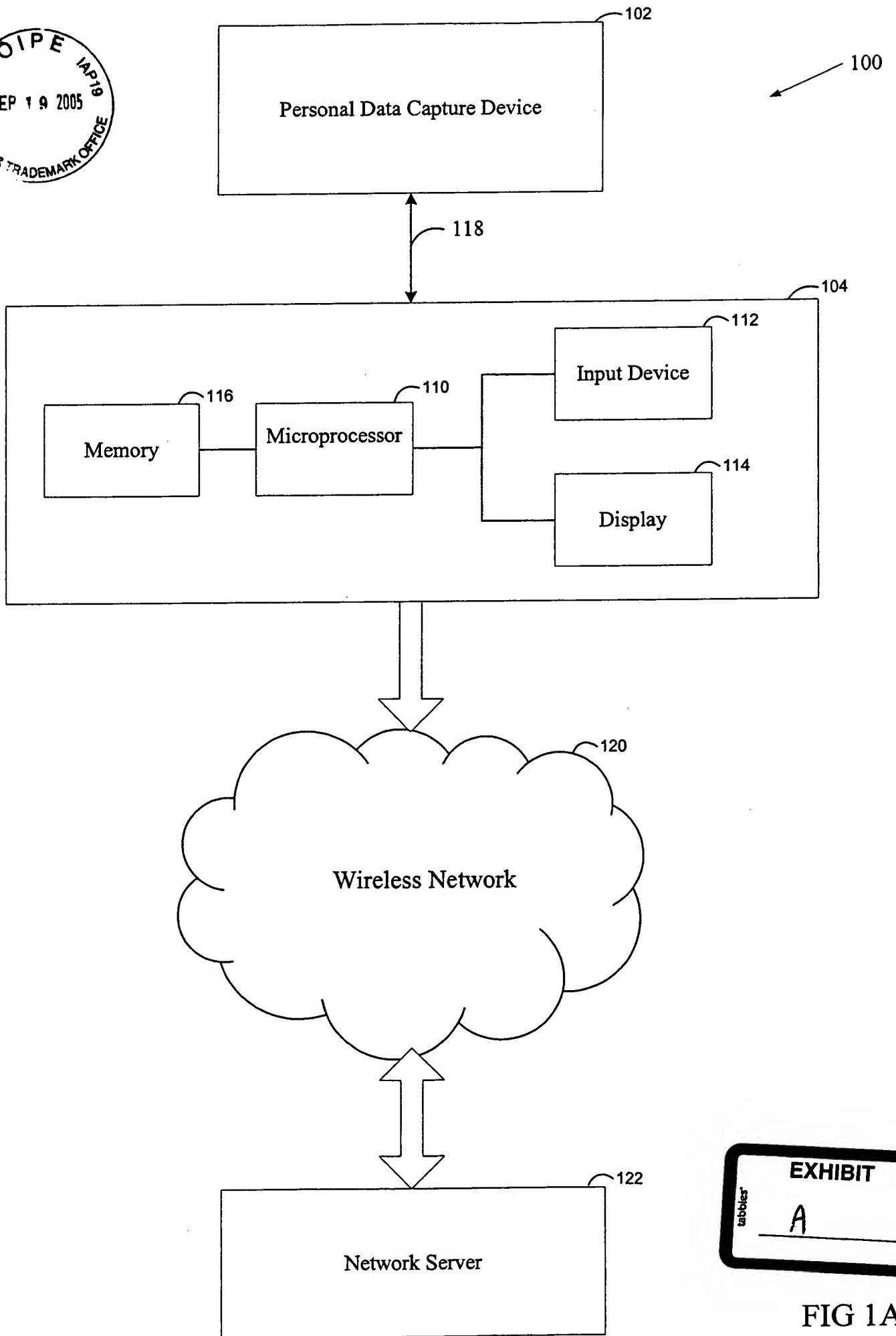


FIG 1A

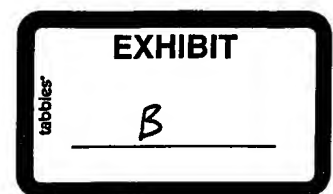
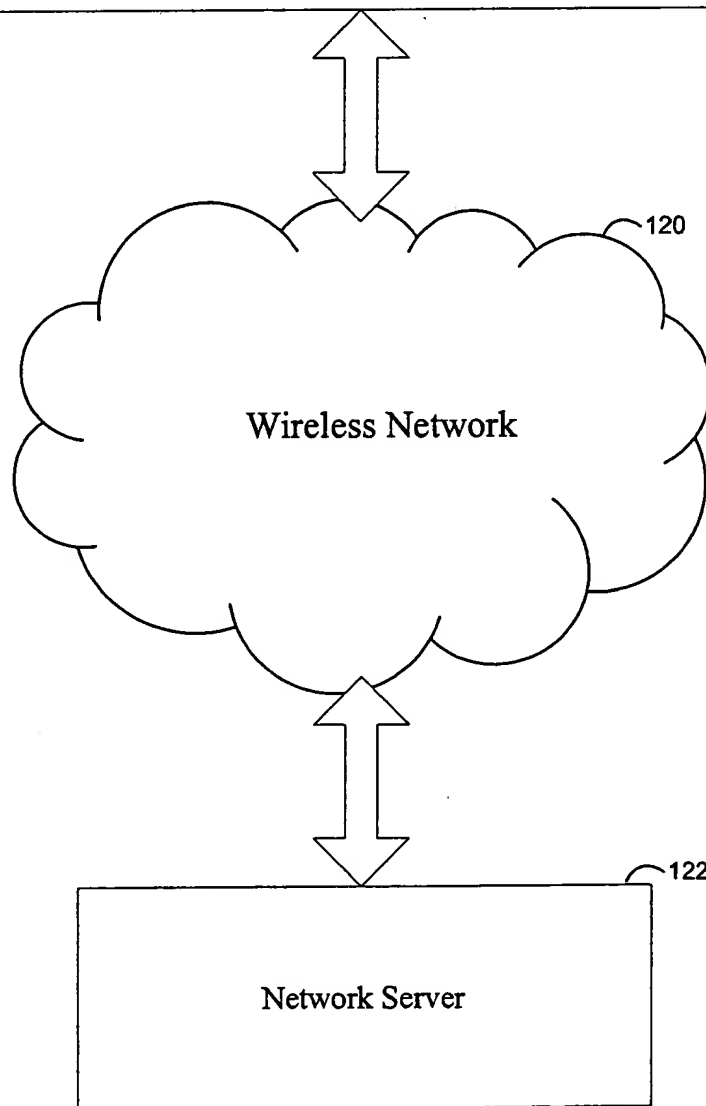
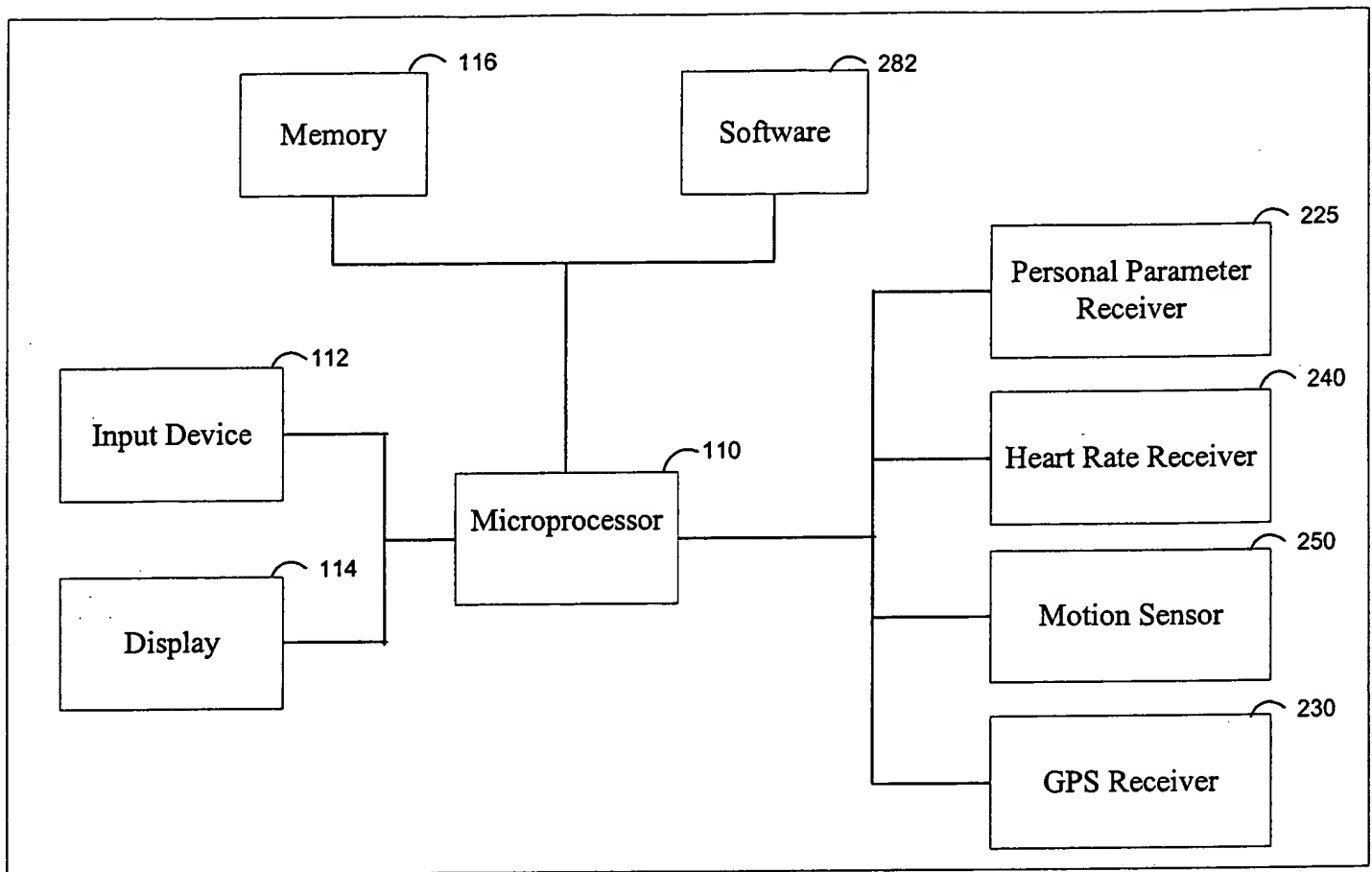


FIG 1B



200

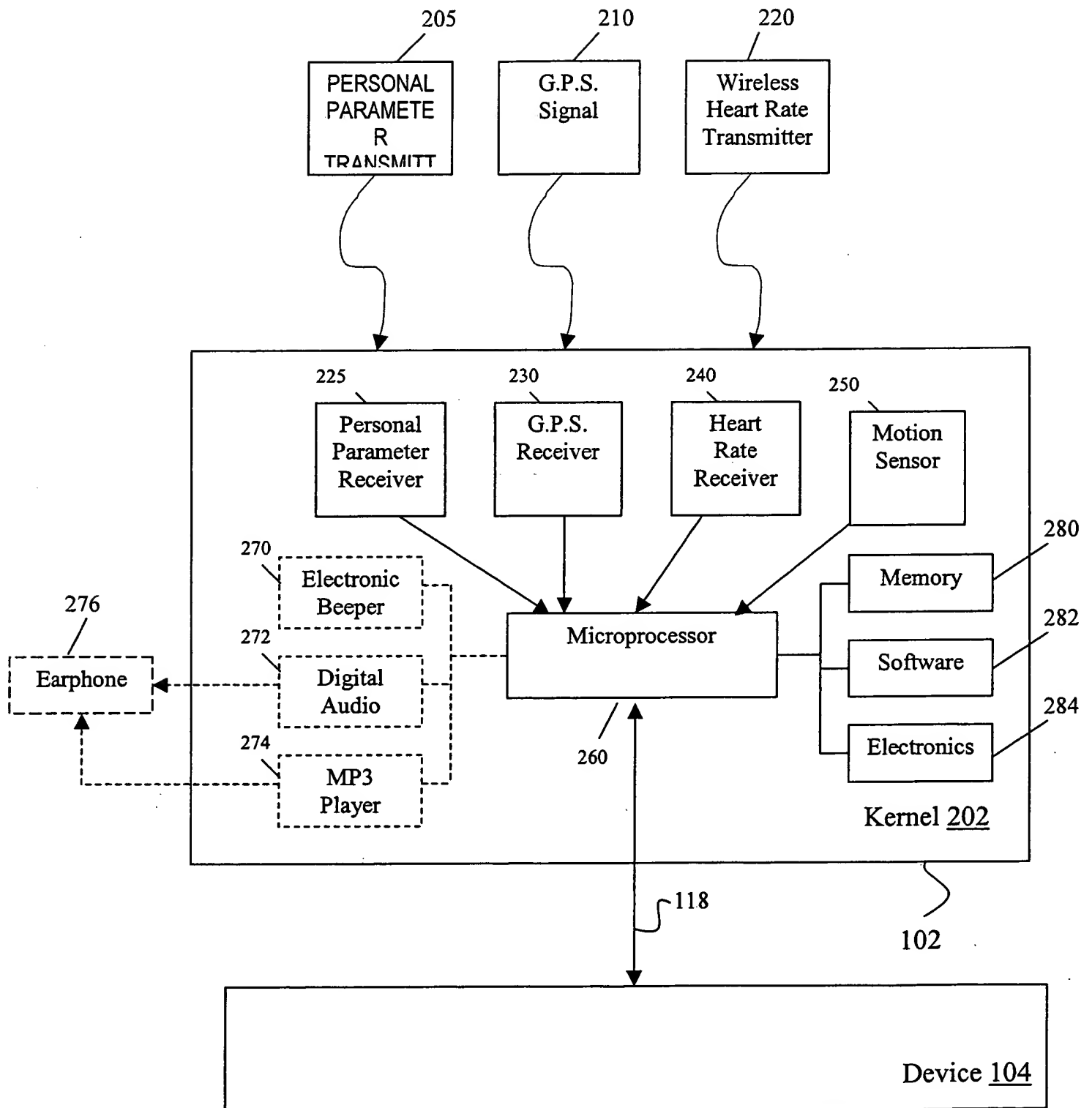


FIG. 2

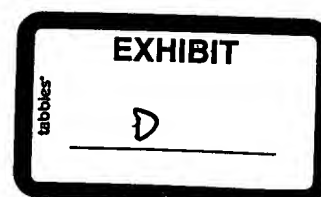
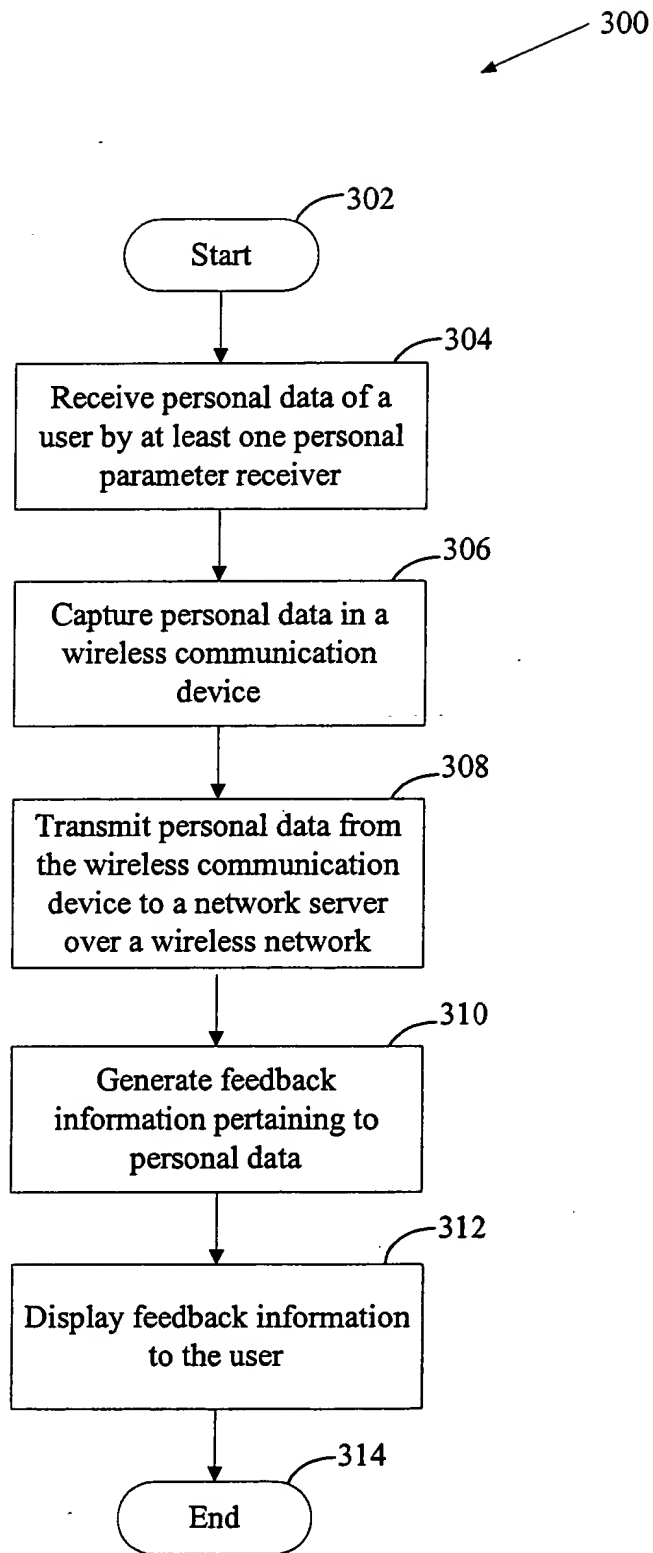


FIG. 3

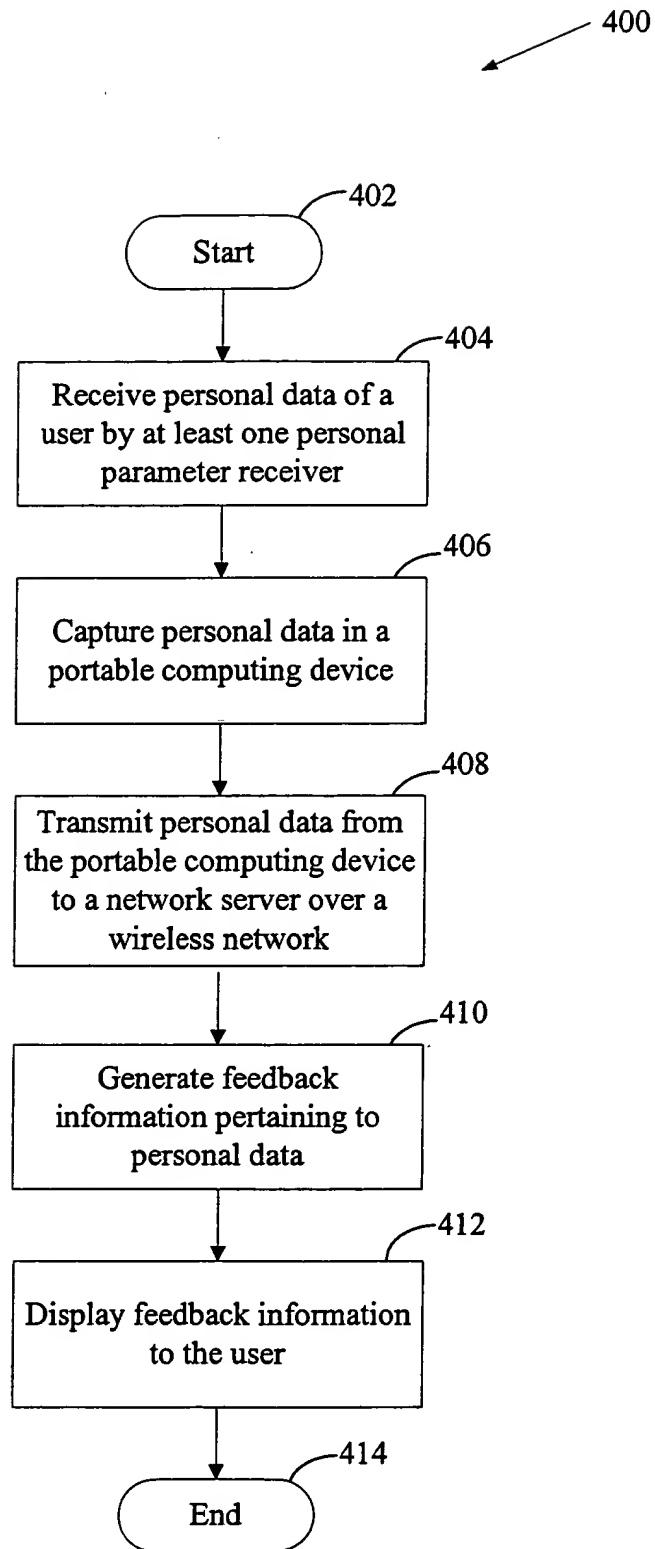


FIG. 4

"Deane Gardner" <dgardner@sportbrain.com> on 10/20/2000 04:06:30 PM

Please respond to dgardner@sportbrain.com

To: Marina Portnova/Bstz  
cc: "John Higginson" <jhigginson@sportbrain.com>  
Subject: RE: Cell phone continuation in part?

Hi Marina,

Thanks for your help! November 6 would be great. I hope you had a pleasant vacation.

Here is some clarification:

- 1) Both integrated in to a cell phone, PDA, or cell phone/PDA combination,  
and as a separate attachable device (for example, to a Handspring Visor or  
a  
future cell phone which has an expansion slot).
- 2) If integrated in the cell phone, some of the Brain's components would be  
shared with the corresponding cell phone's components (CPU, memory),  
and  
there would be no interface since they are one unit.
- If the Brain attaches to a cell phone, PDA, or cell phone/PDA combination,  
there would be an interface between the Brain's CPU and the cell phone's  
CPU, perhaps the same I2C bus that currently connects the Brain's CPU to  
its  
memory (like how the I2C bus connects the Brain to the Port now when the  
Brain is docked in the Port).
- 3) Either one would work. One or the other would be appropriate depending  
on the particular user's preference or need.





4) Yes, the idea would be to use the cell phone network to send the data instead of the landline network.

5) The user feedback display might be on the cell phone, too, in addition to over a normal web browser. The user could use a microbrowser to view a WAP version of his/her normal web pages, or just read out on the cell phone display how many step/miles/calories he/she has gone today, or heart rate, etc without going to a web page.

-----Original Message-----

From: Marina Portnova [mailto:Marina\_Portnova@bstz.com]

Sent: Friday, October 20, 2000 10:52 AM

To: dgardner@sportbrain.com

Cc: John Higginson

Subject: Re: Cell phone continuation in part?

Deane,

How soon do you need it? I can try to finish the draft early next month (by

Nov. 6). However, I will need more information from you.

1. How will the brain be incorporated into the cell phone (i.e., integrated

into cell phone circuit, attachable by the user, etc.)?

2. Will the brain have a cell phone interface? If yes, what kind of interface?

3. Will collected data be sent from the brain to the server periodically or

upon receiving a signal from the user?

4. Will the server have a receiver configured to receive data via cellular network?

5. Any other detailed information that you may think of to provide better

understanding of the invention.

Thanks,  
Marina

**S P O R T B R A I N**

To: MARINA PORTNOVA	From: DEANE GALONER
Fax: 408 720 9392	Pages: 2
Phone:	Date: 11/6/00
Re: CAL/PA INTEGRATOR	CC:

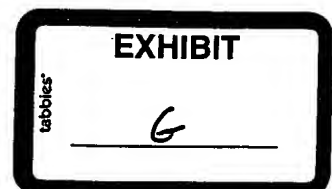
MARINA,

HERE'S ~~MY~~ MY TARDY DRAWING.

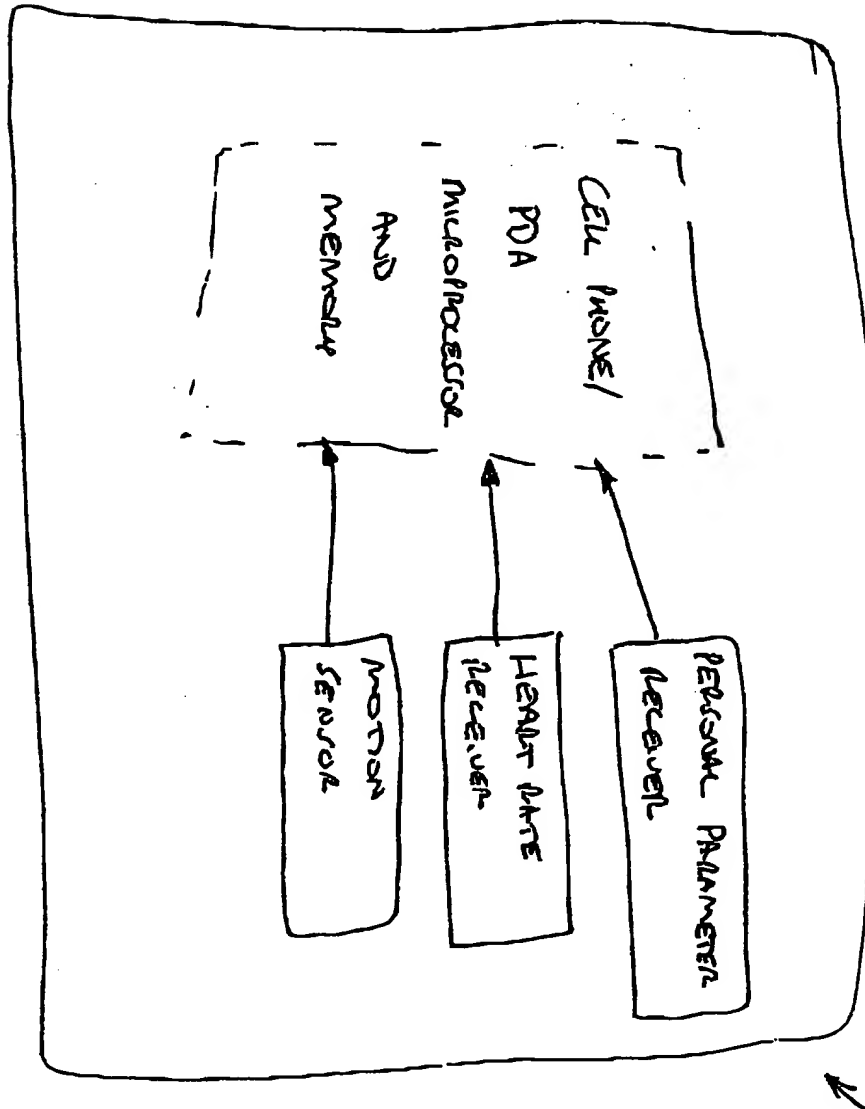
SORRY ITS LATE.

DEANE

785 Palomar Ave.  
Sunnyvale, CA 94086  
408-523-9000  
Fax 408-523-9101



CELL PHONE, PDA, OR  
COMBINATION CELL PHONE/PDA



SPORTBRAIN FUNCTIONS INCORPORATED INTO CELL PHONE AND/OR PDA

